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REMARKS

Upon entry of the claim amendments, claims 1-27 and 29-38 will be all the claims pending in the application.

Applicants have amended claims 1, 31, and 38 in accordance with the specification as originally filed, including, for example, the description at page 17, lines 6-9 and the example film compositions described at page 27 forward. Minor editorial changes have been made to claim 2.

I. Paragraph No. 1: Restriction/Election of Species Requirement

The Examiner states that "applicant did not distinctly and specifically point out the supposed errors in the restriction requirement."

Applicants respectfully disagree with the Examiner's decision to treat Applicants' election of Group I as an election without traverse.

In this regard, the response to the restriction/election of species filed in December 2002 distinctly and specifically states that a search for claims 1-38, particularly including Group II, claim 27, drawn to a method of producing a multi-layered colored thermoplastic film, would not be an undue burden on the Examiner. Applicants' position represents a *bona fide* attempt to traverse the restriction requirement. Nothing more is required of Applicants to meet their burden of electing with traverse. No support, rule or regulation has been brought to Applicants' attention that indicates otherwise.

Applicants respectfully request that the Examiner reconsider and indicate that the election has been treated with traverse in the next communication to Applicants.

II. Paragraph Nos. 2-3: Rejection Under 35 U.S.C. § 112

Claims 2, 4-7, and 28-30 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite.

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Applicants have amended claim 2 and canceled claim 28.

With respect to the phrase "a stratum of voids," Applicants point out that the essential inquiry pertaining to the requirement of §112, second paragraph, is whether the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity (*see*, MPEP §2173.02). Definiteness of claim language must be analyzed, not in a vacuum, but in light of:

- (A) the content of the particular application disclosure;
- (B) the teachings of the prior art; and
- (C) the claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.

Applying the law to the facts of the present case, "a stratum of voids" is described in detail by the specification, including, for example, the description at page 20, lines 8-14 and page 20, line 26 through page 21, line 5. A person of ordinary skill in the art, moreover, would be familiar with the proper interpretation of the phrase, as evidenced, for example, by the fact that prior art references, such as U.S. Patent 4,965,123 to Swan *et al.* ("Swan"), disclose the exact same language (column 4, lines 28-62).

Accordingly, Applicants respectfully request the withdrawal of this §112 rejection.

III. Paragraph Nos. 4-7: Rejections Under 35 U.S.C. § 102 and 103

Claims 1-2, 5-6, and 28 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Swan.

Claims 3-4, 7, 29-36, and 38 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Swan in view of U.S. Patent 4,741,950 to Liu *et al.* ("Liu").

Applicants respectfully traverse.

Swan does not disclose a film wherein either (i) each layer of said film is substantially free of voids or (ii) said core layer (a) is the only layer of the film that comprises a stratum of voids. Therefore, Swan cannot anticipate the presently claimed invention.

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Swan, moreover, fails to render obvious the presently claimed invention.


In this regard, if the proposed modification to the prior art would render the prior art invention being modified unsatisfactory for its intended purpose, there can be no suggestion or motivation to make the proposed modification (In re Gordon, 221 USPQ 1125 (Fed. Cir. 1984)). Applying the law to the facts of the present case, modifying Swan so that each of its layers is substantially free of voids or so that its core layer is the only layer comprising a stratum of voids would destroy the teaching of Swan. Swan necessarily requires the presence of both a voided core layer and at least one voided skin layer. According to Swan, the objects of its invention can only be met where a film contains both a voided core layer and at least one voided skin layer.

For the foregoing reasons, Applicants request that the Examiner reconsider and withdraw the present §102 and §103 rejections.

Reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, he is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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APPENDIX

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Claim 28 is canceled.

The claims are amended as follows:

1. (AMENDED) A multi-layered colored polymeric film comprising:
 - (a) an opaque core layer comprising a thermoplastic material ^{said layer} having a first side and a second side; and
 - (b) a first skin layer comprising a thermoplastic material with a coloring agent wherein said first skin layer is adjacent to the first side of the core layer;
wherein either (i) each layer of said film is substantially free of voids or (ii) said core layer (a) is the only layer of the film that comprises a stratum of voids.
2. (AMENDED) The film of claim 1, wherein the core layer (a) comprises a stratum of voids, and positioned at least substantially within at least a substantial number of each of said voids; is at least one spherical void-initiating particle which is phase distinct and incompatible with said ~~matrix~~ thermoplastic material, the void space occupied by said particle being substantially less than the volume of said void, with one generally cross-sectional dimension of said particle at least approximating a corresponding cross-sectional dimension of said void.
31. (AMENDED) A multi-layered colored thermoplastic film comprising:
 - (a) an opaque core layer comprising a thermoplastic material ^{said layer} having a first side and a second side;
 - (b) a first transition layer comprising a thermoplastic material having a first side and a second side, wherein the second side of the first transition layer is adjacent to the first side of the core layer; and

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- (c) a first skin layer comprising a thermoplastic material ^{said layer} having a first side and a second side, wherein the first skin layer comprises a coloring agent, and the second side of the first skin layer is adjacent to the first side of the first transition layer;

wherein either (i) each layer of said film is substantially free of voids or (ii) said core layer (a) is the only layer of the film that comprises a stratum of voids.

38. (AMENDED) A multi-layered colored thermoplastic film comprising:

- (a) an opaque core layer comprising a thermoplastic material ^{said layer} having a first side and a second side;
- (b) a first transition layer comprising a thermoplastic material ^{said layer} having a first side and a second side wherein the second side of the first transition layer is adjacent to the first side of the core layer; and
- (c) a first skin layer comprising a thermoplastic material ^{said layer} having a first side and a second side wherein the second side of the first skin layer is adjacent to the first side of the first transition layer;

wherein the multi-layered colored thermoplastic film further comprises a coloring agent in one layer selected from the group consisting of the first transition layer and the first skin layer, and either (i) each layer of said film is substantially free of voids or (ii) said core layer (a) is the only layer of the film that comprises a stratum of voids.